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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ROBERT E. COYLE FEDERAL COURTHOUSE

WEST PACIFIC ELECTRIC
COMPANY CORPORATION,

Plaintiff,

v.

DRAGADOS/FLATIRON, a joint venture; LIBERTY MUTUAL INSURANCE COMPANY, a Massachusetts corporation; FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a Maryland corporation; ZURICH AMERICAN INSURANCE COMPANY, a New York corporation; THE CONTINENTAL INSURANCE COMPANY, a Pennsylvania corporation; XL SPECIALTY INSURANCE COMPANY, a Delaware corporation; THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA, a Pennsylvania corporation; AMERICAN HOME ASSURANCE COMPANY, a New York corporation; NATIONAL INDEMNITY COMPANY, a Nebraska corporation; TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a Connecticut corporation; FEDERAL INSURANCE COMPANY, an Indiana corporation,

Defendants.

CASE NO: 1:18-CV-00166-LJO-BAM

STIPULATION TO CONTINUE
DISCOVERY DEADLINES AND
ORDER

Assigned to:
Hon. Lawrence J. O'Neill, Courtroom 4
Hon. Barbara A. McAuliffe, Courtroom 8

Complaint Filed: January 30, 2018
Trial Date: March 17, 2020

1 The parties to this Stipulation to Continue Discovery Deadlines are
2 Plaintiff West Pacific Electric Company Corporation (“WPECC”), Defendant
3 Dragados/Flatiron Joint Venture (“DFJV”), and Defendants Liberty Mutual
4 Insurance Company, Fidelity and Deposit Company of Maryland, Zurich
5 American Insurance Company, The Continental Insurance Company, XL
6 Specialty Insurance Company, The Insurance Company of the State of
7 Pennsylvania, American Home Assurance Company, National Indemnity
8 Company, Travelers Casualty and Surety Company of America, and Federal
9 Insurance Company (collectively referred to as “Surety Defendants”).
10 Collectively, WPECC, DFJV and the Surety Defendants are hereinafter referred
11 to as the “Parties.”

12 The Parties, through their respective counsel, jointly stipulate and
13 respectfully request that the Court enter an Order continuing discovery deadlines
14 (as more specifically identified further below) to allow more time for the Parties
15 to complete its discovery prior to the current deadlines.

16 Good cause exists for modifying and continuing the requested deadlines
17 because the parties have conducted extensive discovery that has generated more
18 than 200,000 pages of responsive documents and five volumes of percipient
19 witness deposition testimony. It is anticipated that an additional twelve volumes
20 of deposition testimony will be generated before the close of non-expert
21 discovery. The record has become so voluminous that the original expert witness
22 discovery deadlines no longer permit sufficient time to allow for the expert
23 analysis needed to comply with the report requirements of F.R.Civ.P. 26 and the
24 needs of the case.

25 Due to schedule conflicts for the depositions of the California High Speed
26 Rail Authority’s Person Most Knowledgeable and the WPECC employee, Sarah
27 Villa, the parties will be unable to take and complete depositions prior to
28 expiration of the July 11, 2019 non-expert discovery cutoff.

1 Given the unanticipated volume of discovery and the unexpected delays,
2 the Parties request that the Court's previous Scheduling Order, including
3 discovery deadlines, be amended with the following proposed dates:

4 Non-Expert Discovery Cutoff: July 19, 2019

5 Expert Disclosure: August 16, 2019

6 Supplemental Expert Disclosure: September 6, 2019

7 Expert Discovery Cutoff: October 11, 2019

8 DATE: July 1, 2019

Respectfully Submitted

9 FINCH, THORNTON & BAIRD, LLP

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11 By: /s/David W. Smiley
12 P. RANDOLPH FINCH JR.
13 DAVID W. SMILEY
14 Attorneys for Defendants
15 Dragados/Flatiron, Liberty Mutual
16 Insurance Company, Fidelity and Deposit
17 Company of Maryland, Zurich American
18 Insurance Company, The Continental
19 Insurance Company, XL Specialty
20 Insurance Company, The Insurance
21 Company of the State of Pennsylvania,
22 American Home Assurance Company,
23 National Indemnity Company, Travelers
24 Casualty and Surety Company of America,
25 Federal Insurance Company

19 DATED: July 1, 2019

Respectfully submitted,

20 MURPHY AUSTIN
21 ADAMS SCHOENFELD LLP

22
23 By: /s/ Lisa D. Nicolls
24 D. MICHAEL SCHOENFELD
25 LISA D. NICOLLS
26 Attorneys for Plaintiff West Pacific
27 Electric Company Corporation

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ORDER

Pursuant to the parties' stipulation, and good cause appearing, IT IS HEREBY ORDERED that the Scheduling Order in this action is modified as follows:

- a. Non-expert discovery shall be completed by July 19, 2019;
- b. Initial expert disclosures shall be completed by August 16, 2019;
- c. Supplemental expert disclosures shall be completed by September 6, 2019; and
- d. Expert discovery shall be completed by October 11, 2019.

The deadline for filing dispositive motions remains set for October 15, 2019, the pretrial conference remains set for January 21, 2020 at 9:00 AM in Courtroom 4 before Chief Judge Lawrence J. O'Neill, and the trial date remains set for March 17, 2020, at 8:30 a.m. in Courtroom 4 before Chief Judge O'Neill. The Court notes that this is the parties' second stipulation to modify the Scheduling Order with respect to the deadline for completion of non-expert discovery and the parties are cautioned that further modifications of the Scheduling Order will not be granted absent a showing of good cause. Fed. R. Civ. P. 16(b).

IT IS SO ORDERED.

Dated: July 1, 2019

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE